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No. 06-187

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

WILSON W. WILSON, appearing in his capacity as the curator of the interdict, CHRISTEL W. FONTENOT,

Petitioner,

v.

STATE FARM FIRE AND CASUALTY COMPANY,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

REPLY BRIEF

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Even though, respondent STATE FARM FIRE AND CASUALTY INSURANCE COMPANY (hereinafter **"respondent" or "State Farm"**) contends that the fire was intentionally set (BIO pg. 2)[1] and that it denied the **entire claim**, pursuant to Louisiana law and the language of the State Farm policy. However, State Farm negotiated a settlement with Martin Fontenot, Sr. (the insured in community with the petitioner Christel W. Fontenot), which involved full payment of his interest in the community property and that of his children (BIO pg. 10), which, the negotiated settlement, petitioner shows to be contrary to the language of the policy:

SECTION I AND SECTION II-CONDITIONS

> 14. **Intentional Acts**. If you or any person insured under this policy causes or procures a loss to property covered under this policy for the purpose of obtaining insurance benefits, then this policy is void and we will not pay you or any other insured for this loss. (PWC, pgs. 15-16)[2]

The fact, which is absolutely undisputed, that State Farm paid petitioner's husband who owns and undivided one-half interest in the community property was/is and **acknowledgment** by State Farm that **the fire was not intentionally set by a named insured under the policy**.

The negotiated settlement by State Farm to pay one of the insured under the policy unequivocally established that the evidence was devoid proof that the fire was intentionally set by either of the insured owners of the property in

1. BIO – Brief In Opposition

2. PWC – Petition for a Writ of Certiorari

community; and accord greater weight, credibility, validation and justification of the reasons for judgement by the District Court's finding of fact and holding that State Farm failed to carry its burden of proof that the fire was set by petitioner and that it could not have been set by some person other than petitioner. (PWC/App. A, pgs. 8a-9a)

State Farm emphasizes that "One of the most incriminating items of proof in an arson case is evidence that an insured removed personal items of economic and sentimental value shortly before the fire occurred." (BIO pg. 13)

However, State Farm apparently overlooks the undisputed fact that petitioner's husband Martin Fontenot moved out of the house, took the keys to the house with him, removed certain of his personal and sentimental items of belongings with him; but forgetting to take the hunting guns with him, but remembering to ascertain that his horse would be well cared for while taking the boys from the house leaving petitioner alone totally unprovided for in her known mental condition; but, upon leaving the house on Friday, filing a petition for a divorce and agonizing over the situation, mentally searching for further ways and means to induce wrongfully behavioral conduct to assign to the petitioner suddenly remembered that he had not removed the hunting gun from the house, returned to the house on Sunday using the keys he had kept in his possession and went into the house to get the hunting guns out of the closet and removed them from the house, which, of course, is equally, or more, incriminating acts of proof of arson assignable and applicable to petitioner's now divorced husband owning insured property in community with petitioner in this arsenal case than to petitioner. (PWC, pgs. 6-7)

CONCLUSION

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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